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TESLA, INC. dba TESLA MOTORS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**DEFENDANT TESLA, INC.'S
OBJECTIONS TO PLAINTIFF'S
REVISED DESIGNATION OF
DEPOSITION TESTIMONY OF
DEMETRIC DI-AZ**

Trial Date: September 24, 2021
Complaint filed: October 16, 2017

Defendant Tesla, Inc. ("Tesla") provides the following objections and counter designations to Plaintiff Owen Diaz's Revised Designation of Deposition Testimony of Demetric Di-az (Dkt. No. 243).

Di-Az, Demetric 5/15/18, Volume 1

#	Lines	Deposition Excerpt	Objection / Counterdesignation
1	10:4-22 (38 secs)	<p>4 Q. Could you please state your full name for the</p> <p>5 record.</p> <p>6 A. Demetric Jean Di-az.</p> <p>7 Q. Did you say Jean?</p> <p>8 A. Yes. That's my middle name.</p> <p>9 Q. Okay. And how do you spell your last name?</p> <p>10 A. D-I hyphen A-Z.</p> <p>11 Q. And is your father's name Owen Diaz?</p> <p>12 A. Yes.</p> <p>13 Q. And he spells his name with a D-I-A-Z without a</p> <p>14 hyphen; right?</p> <p>15 A. Yes.</p> <p>16 Q. And why do you spell your name with a hyphen?</p> <p>17 A. As a kid it was given to me like that through</p> <p>18 birth. I really don't know why it was like that.</p> <p>19 Q. You don't have an understanding of why your last</p> <p>20 name is spelled with a hyphen?</p> <p>21 A. I was told that was the original spelling. That</p> <p>22 was it.</p>	
2	31:20-22 (3 sec)	<p>20 Q. How would you describe your relationship with</p> <p>21 your father?</p> <p>22 A. My relationship with my father was good.</p>	
3	40:14-16 (8 sec)	<p>14 Q. So you received a high school diploma from</p> <p>15 Pittsburg's adult school in June of 2014?</p> <p>16 A. Yes.</p>	
4	109:2-3 (2 sec)	<p>2 Q. How many days a week did you work?</p> <p>3 A. Five.</p>	
5	107:9-19	12 Q. And who told you you would be	

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	(43 sec)	<p>reporting into</p> <p>13 Javier Caballero?</p> <p>14 A. He told me after because I started asking</p> <p>15 around, like, "Hey, who do I" -- and he was, like, "Oh,</p> <p>16 well, you have to report to me now. You don't report to</p> <p>17 the day shift anymore." And I was, like, "Okay."</p> <p>18 Q. So Javier Caballero told you that you would be</p> <p>19 reporting to him?</p> <p>20 A. Yes.</p>	
6	119:18-21 (08 Sec)	<p>18 Q. Why didn't you get along with Javier prior to</p> <p>19 this incident?</p> <p>20 A. Javier was harassing me and calling me a nigger</p> <p>21 every day; so, no, I didn't get along with him.</p>	<p>Objection.</p> <p>Testimony was excluded by Court Order on Tesla's Motions <i>In Limine</i> (Dkt. No. 207), p. 6, limiting Demetric's testimony to only the alleged incident in which Owen Diaz allegedly witnessed, stating, discussing that alleged incident and ruling "I will allow Demetric to testify to the events and complaints about which [Owen] Diaz was aware." This testimony about other incidents where Owen Diaz was not present must be excluded per the Court's ruling.</p>
7	150:15-151:20 (2 min, 45 sec)	<p>15 Q. In paragraph 14 you state "In approximately</p> <p>16 August of 2015, Demetric's father, Owen, informed him</p> <p>17 West Valley had openings for positions at the Tesla</p>	<p>Counterdesignation - Rule of completeness, FRE 106.</p> <p>62:13-14. 16-17</p>

#	Lines	Deposition Excerpt	Objection / Counterdesignation
1		18 factory."	13 MS.
2		19 Did your father tell you that West	ANTONUCCI: Do
3		Valley had	you have any reason
4		20 openings?	to
5		21 A. Yes.	14 believe that West
6		22 Q. Did your father encourage you to	Valley was not your
7		apply?	employer?
8		23 A. Yes.	16 THE WITNESS:
9		24 Q. What did your father tell you	No, I don't have any
10		about what it was	reason to
11		25 like to work at Tesla?	17 believe that they
12		151	were not my
13		1 A. He told me it was going to be a	employer.
14		good experience	
15		2 and that it would be -- like, it would be	
16		good. I	
17		3 bought into it because I thought it was	
18		going to be the	
19		4 ultimate experience. Like, oh, I get to	
20		work for Tesla.	
21		5 They're making modern productions to	
22		build electrical	
23		6 cars to make the world a better place.	
24		Like, why	
25		7 wouldn't I want to be a part of that?	
26		8 Q. Your father told you it was going	
27		to be a good	
28		9 experience to work at Tesla?	
		10 A. Yeah. He told me it would be a	
		good experience	
		11 and it was going to be good for me.	
		12 Q. And that was right before you	
		applied in August	
		13 of 2015?	
		14 A. Yes.	
		15 Q. Did your father tell you around	
		the time you	
		16 applied in August 2015 anything about	
		what his work	
		17 experience was like at Tesla?	
		18 A. When I was applying there, he	
		said that his work	
		19 experience was going okay. From what	
		I could tell, it	
		20 was going good.	

#	Lines	Deposition Excerpt	Objection / Counterdesignation
8	159:24- 160:14 (54 sec)	<p>24 Q. And who stated this phrase?</p> <p>25 A. Javier. I think his last name is Caballero.</p> <p style="text-align: right;">160</p> <p>1 You said his name.</p> <p>2 Q. Javier Caballero said this, quote,</p> <p>"All you</p> <p>3 fucking niggers -- I can't stand you</p> <p>motherfuckers"?</p> <p>4 A. Yes.</p> <p>5 Q. And in paragraph 19 you say that</p> <p>it was your</p> <p>6 shift lead?</p> <p>7 A. It's my shift supervisor.</p> <p>8 Q. So it wasn't your shift lead?</p> <p>9 A. No. That's probably a mistake.</p> <p>10 Q. Where was this statement said?</p> <p>11 A. Right on the production floor.</p> <p>12 Q. Where on the production floor?</p> <p>13 A. Within zone 1 and getting ready to</p> <p>walk out of</p> <p>14 our section.</p>	<p>Counterdesignations. Rule of completeness, FRE 106.</p> <p>160:15-20-161:8</p> <p>15 Q. And how many other people besides you and T.J. 16 were present? 17 A. Me, T.J., my father, and the rest of my team 18 that was getting ready to leave. 19 Q. It was directed at your whole team? 20 A. Yes. 21 Q. Sorry. Did you tell me how many people are on 22 your team? 23 A. I think I told you earlier. 24 Q. Can you tell me again? 25 A. I think approximately about six. p. 161 1 Q. Any people on your team not African-American? 2 A. Yes. 3 Q. Who? 4 A. I think it was probably about, like, three other 5 guys that weren't African-American. 6 Q. Any other people on your team African-American? 7 A. Me, T.J., and one other guy. I don't</p>

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			remember 8 his name.
			162:2-10
			2 A. From there I went to his immediate -- to 3 Javier's supervisor. They did nothing about it. And 4 then from there, I went to HR, and they did nothing 5 about it. 6 Q. Who in HR did you complain to? 7 A. I don't remember the lady's name. 8 Q. And who was Javier's supervisor? 9 A. It was another male. I don't remember his name 10 either.
			162:13-21
			13 Q. Did you ever put anything in writing? 14 A. No. 15 Q. You never complained in writing? 16 A. No. I just went and verbally complained. It 17 never went anywhere. 18 Q. You never sent a text? 19 A. No. 20 Q. You never

#	Lines	Deposition Excerpt	Objection / Counterdesignation
			wrote an e-mail? 21 A. No. 163:22-24 22 Q. Did you follow back up with her to see if 23 anything had happened? 24 A. No.
9	165:24- 166:3 Cut for relevance	<p>24 Q. Do you know whether your father heard it?</p> <p>25 A. My father told me that he did hear it, and</p> <p style="text-align: right;">166</p> <p>1 that's the first time I seen my father, like, really</p> <p>2 feel like he couldn't do anything for me. Like, he</p> <p>3 didn't know what to do.</p>	<p>Counterdesignations. Rule of completeness, FRE 106.</p> <p>166:6-7, 166:25-167:4</p> <p>6 Q. Have you ever used the word?</p> <p>7 A. Yes.</p> <p>25 Q. Can you give me an example of how you have used</p> <p>p. 167</p> <p>1 the word in the past?</p> <p>2 A. Like, in the past when I see one of my friends,</p> <p>3 I might be like, "What's up, my nigga?" Like, that's</p> <p>4 it.</p>
10	185:24- 186:3 Cut for length (16 sec)	<p>24 Q. So you mentioned that the first time that you</p> <p>25 heard Javier say the N-word was two or three days after</p> <p style="text-align: right;">186</p> <p>1 working the night shift. He said, "All</p>	<p>Objection. Testimony was excluded by Court Order on Tesla's Motions <i>In Limine</i> (Dkt. No. 207), p. 6,</p>

#	Lines	Deposition Excerpt	Objection / Counterdesignation
		<p>you N-words need 2 to hurry the F up"? 3 A. Yes.</p>	<p>limiting Demetric's testimony to only the alleged incident in which Owen Diaz allegedly witnessed, stating, discussing that alleged incident and ruling "I will allow Demetric to testify to the events and complaints about which [Owen] Diaz was aware." This testimony about other incidents where Owen Diaz was not present must be excluded per the Court's ruling.</p>
11	193:8-24 (10 sec)	<p>8 Q. Do you know why it is that you're – that you 9 were terminated? 10 A. No. 11 Q. Do you know why you were issued a 12 written 13 warning? 14 A. No. 15 Q. If you were to estimate how many 16 times Javier 17 Caballero used the N-word at Tesla, how 18 many? 19 A. I would say more than 50. 20 (Reporter clarification.) 21 THE WITNESS: More than 50 but less 22 than 60. So 23 in between there. I didn't work with 24 him -- I just 25 got 26 let go. 27 Q. Are you alleging that every single 28 day you worked at Tesla Javier used the N-word? A. Pretty much every day after the third day that I</p>	<p>As to 193:8-13. Counterdesignations. Rule of completeness, FRE 106.</p> <p>193:2-7</p> <p>2 Q. Did you ever communicate with anyone about the 3 reasons that you were terminated? 4 A. When I asked, I was just told my contract was 5 ended. 6 Q. And that was with Samuel? 7 A. Yes.</p> <p>145:7-17</p> <p>7 Q. Did he recommend that you talk to anybody else 8 about why your</p>

#	Lines	Deposition Excerpt	Objection / Counterdesignation
		24 got there he used the N-word.	<p>contract was ending? 9 A. He just said give my rep a call and he should be 10 able to help me find another job. That was it. That 11 was all. 12 Q. So you understood that you were eligible to be 13 hired in another job? 14 A. From what I was told, I was eligible to be hired 15 for another job. That's what I was told. 16 Q. By Samuel? 17 A. Yes. That's what I was told.</p> <p>Objection as to 193:14-24. Testimony was excluded by Court Order on Tesla's Motions <i>In Limine</i> (Dkt. No. 207), p. 6, limiting Demetric's testimony to only the alleged incident in which Owen Diaz allegedly witnessed, stating, discussing that alleged incident and ruling "I will allow Demetric to testify to the events and complaints about which [Owen] Diaz was aware." This testimony about other incidents where</p>

#	Lines	Deposition Excerpt	Objection / Counterdesignation
			Owen Diaz was not present must be excluded per the Court's ruling.

Dated: September 27, 2021

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By /s/ Tracey A. Kennedy

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